IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 24276 of 2006(M)

PETITIONER:

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1. LAL C.GEORGE,
   AGED 54, CHOTHIRAKKUNNEL HOUSE,
   THOTTACKADU P.O., CHANGANACHERRY TALUK,
   KOTTAYAM DISTRICT.

2. TOM C.GEORGE,
   AGED 42, CHOTHIRAKKUNNEL HOUSE,
   THOTTACKADU P.O., CHANGANACHERRY TALUK,
   KOTTAYAM DISTRICT.

3. GRACE LAL,
   AGED 51, W/O.LAL C.GEOROGE,
   CHOTHIRAKKUNNEL HOUSE,
   THOTTACKADU P.O., CHANGANACHERRY TALUK,
   KOTTAYAM DISTRICT.

4. C.M.GEORGE,
   AGED 51, CHOTHIRAKKUNNEL HOUSE,
   THOTTACKADU P.O., CHANGANACHERRY TALUK,
   KOTTAYAM DISTRICT.

BY ADV. SRI.JACOB GEORGE (PATHAZHAKKUZHIKAL)
SRI.JOSEPH A.VADAKKEL
SRI.GEORGE KARITHANAM VARGHESE
SRI.V.J.JOHN

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
   REP. BY THE CHIEF ENGINEER,
   PATTOM, THIRUVANANTHAPURAM.

2. DEPUTY CHIEF ENGINEER,
   ELECTRICAL CIRCLE (KSEB),
   PAKKIL P.O., KOTTAYAM-12.

3. ASSISTANT EXECUTIVE ENGINEER,
   ELECTRICAL MAJOR SECTION,
   KARUKACHAL, CHANGANACHERRY TALUK,

KOTTAYAM DISTRICT.

4. ASSISTANT ENGINEER,
ELECTRICAL SECTION,
KARUKACHAL, CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE PHOTOCOPY OF ADDL. ELECTRICITY BILL DT.28.7.2000 IN RESPECT OF CONSUMER NO.2819 AS PER INVOICE NO.119282 FOR AN AMOUNT OF RS.5,454.

P1(a): TRUE PHOTOCOPY OF REGULAR MONTHLY ELECTRICITY BILL DT.18.5.2000 IN RESPECT OF CONSUMER NO.2819 AS PER INVOICE NO.115511 FOR AN AMOUNT OF RS.13.708.

P1(b): .DO. 19.6.2000 .DO. NO.2819 AS PER INVOICE NO.119914 FOR AN AMOUNT OF RS.13.568/-.

P2: TRUE PHOTOCOPY OF ADDL. ELECTRICITY BILL DT.28.7.2000 IN RESPECT OF CONSUMER NO.2830 AS PER INVOICE NO.119285 FOR AN AMOUNT OF RS.41,744/-.

P2(a): TRUE PHOTOCOPY OF REGULAR MONTHLY BILL DT.22.7.2000 IN RESPECT OF CONSUMER NO.2830 AS PER INVOICE NO.OA. NO.115347 FOR AN AMOUNT OF RS.16,654/-.

P2(b): TRUE PHOTOCOPY OF RECEIPT NO.OA.NO.115347 DT.22.7.2000 FOR AN AMOUNT OF RS.16654/- IN RESPECT OF CONSUMER NO.2830.

P3: TRUE PHOTOCOPY OF ADDL. ELECTRICITY BILL DT.28.7.2000 IN RESPECT OF CONSUMER NO.3327 AS PER INVOICE O.119283 FOR AN AMOUNT OF RS.38,910/-.

P4: .DO. NO.11106 AS PER INVOICE NO.119281 FOR AN AMOUNT OF RS.32,924/-.

P5: TRUE COPY OF OBJECTION DT.19.8.2000 ADDRESSED TO THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION, K.S.E.B. KARUKACHAL.

P6: TRUE COPY OF JUDGMENT IN O.P. NO.24650/2000 OF THE HON'BLE HIGH COURT OF KERALA.

P7: TRUE COPY OF APPEALS ORDER DT.16.8.2006.

P8: TRUE PHOTOCOPY OF REVISED ADDITIONAL ELECTRICITY BILL DT.30.8.2006 IN RESPECT OF CONSUMER NO.2819 AS PER INVOICE NO.XI NO.02056 FOR AN AMOUNT OF RS.8,124/-.

P9: .DO. NO.2830 AS PER INVOICE NO.XI NO.02050 FOR AN AMOUNT OF RS.87,579/-.

P10: .DO. NO.3327 AS PER INVOICE NO.XI.NO.02057 FOR AN AMOUNT OF RS.84,647/-.

P11: .DO. NO.11106 AS PER INVOICE NO.02054 FOR AN AMOUNT OF RS.69,610/-.

P12: TRUE COPY OF LETTER DT.30.8.06 ISSUED BY ASSISTANT ENGINEER, ELECTRICAL SECTION KARUKACHAL.

P13: TRUE PHOTOCOPY OF COUNTER AFFIDAVIT DT.21.11.2000 FILED BY THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION KARUKACHAL.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.24276 of 2006

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Dated this the 29th day of May, 2007.

JUDGMENT

All the petitioners are low tension electricity consumers manufacturing Hawai Chappals in their small scale industries. The bill disputed by first petitioner pertains to two months raised on account of non-installation of capacitor. The additional bill amount demanded is 20% on account of non-installation of capacitor. In appeal, this was reduced to one month. So far as second petitioner is concerned, the disputed bill was raised on account of additional unauthorised load of 16 KW. It is seen that penal charges are demanded in terms of Clause 42(d) of the Conditions of Supply of Electrical Energy. The appellate authority modified the demand to six months which is consistent with the Rules. So far as petitioners 3 and 4 are concerned, the additional bills are raised because one phase of the meter on inspection by Anti Power Theft Squad was found to be not working. It is seen that the bills are raised estimating consumption in the said phase of the meter by adding 50% of the average of the recorded consumption in the other two phases. Power is normally distributed among the three lines in an even manner and therefore, the estimation made is reasonable. The liability

is reduced in appeal to six months in terms of the Rules. While the first petitioner has paid the full amount, all the remaining petitioners have paid only 50% of the amount.

2. I do not find any ground to interfere with the appellate orders on grounds raised and argued by counsel for the petitioners. However, I find force in the contention of counsel for the petitioners by relying on Ext.P2(a) wherein it is seen that an amount of Rs.3,990/- is demanded and collected from second petitioner for alleged unauthorised load shortly prior to inspection. In the circumstances, there will be direction to the respondents to reduce this amount from the revised bill amount payable by second petitioner. So far as the challenge against surcharge is concerned, petitioners' contention based on decision of the Supreme Court in TATA HYDRO ELECTRIC POWER SUPPLY CO. LTD. V. UNION OF INDIA (2003) 4 SCC 172, is not sustainable because surcharge/interest charged herein is from date of revised bills which stand modified by order of the appellate authority. However, since petitioners are SSI units, I direct the respondents to recover surcharge/interest at 12% per annum from the date of revised bills, if balance arrears are paid before 30.6.2007. The W.P. is

disposed of as above and if petitioners fail to pay the said arrears as stated above, the reduction of surcharge/interest granted herein will stand vacated .

C.N.RAMACHANDRAN NAIR
Judge

pms